

REMARKS

The Examiner is thanked for his Office Action. Claims 1-52 are pending in the application. Claims 8-11 and 28-40 are withdrawn from consideration.

Claims 1-7, 12-27 and 41-52 were rejected, and are pending.

The drawings 1-9 have been objected to by Examiner. Formal drawings are submitted separately, and this objection is believed to be obviated.

CLAIM REJECTIONS -- 35 U.S.C. §103

Claims 1-7, 12-27, and 41-52 were rejected under 35 U.S.C. §103(a) as being anticipated by Findikli, et al (U.S. Patent No. 6,529,727 B1, hereinafter Findikli) in view of Dusse, et al. (U.S. Patent No. 6,647,260 B2, hereinafter Dusse).

The aforementioned rejections are respectfully traversed for the reasons given below.

Claim 2 requires “said memory element initially contains at least one temporary operating parameter that facilitates operation of said mobile communication device in an activation mode.” This feature is not taught or suggested by either Findikli or Dusse, not any combination of them. For this feature, the Office Action apparently relies on Findikli col. 5, lines 54-63, which describes the AMIN – but the AMIN is never described as stored in the memory element, which the Office Actions argues is satisfied by Fidilki’s programmable module (SIM) 50. As this feature is not taught or suggested by the cited references, claim 2 should be allowed.

Similarly, claims 3-4, which depend from claim 2, should be allowed. Claim 3 also requires “said storing step replaces said at least one temporary operating parameter with said at least one assigned operating parameter.” This feature is also not taught or suggested by the cited art.

A similar distinction is true of claim 12, which requires “a memory element for storing at least one temporary operating parameter that facilitates operation of said mobile communication device in an activation mode.” This feature is not taught or suggested by any cited art, and so claim 12 and its dependent claims 13-17 should be allowed.

A similar distinction is true of claim 19, which requires “said memory element initially contains at least one temporary operating parameter that facilitates operation of said mobile communication device in an activation mode.” This feature is not taught or suggested by any cited art, and so claim 19 and its dependent claim 20 should be allowed.

Claim 21 requires “at least one temporary operating parameter comprises a temporary International Mobile Subscriber Identity (IMSI).” This feature is not taught or suggested by any art of record. Claim 21 should be allowed.

Claim 22 requires “providing a programmable module that is compatible with said mobile communication device, said programmable module storing at least one temporary operating parameter to facilitate operation of said mobile communication device in an activation mode.” This feature is not taught or suggested by any art of record. Claims 22-27 should be allowed.

Claim 41 requires “transferring the unprogrammed mobile station from the data control channel to a corresponding packet channel, in which packet control and data signals are communicated between the service node and the mobile station; thereafter accessing the memory to identify the mobile station according to the activation identifier; communicating activation signals to the mobile station via the packet channel; and thereafter programming the mobile station for receiving packet data from an applications server.” This combination of features is not taught or suggested by any art of record, or any combination of them. Claim 41 should be allowed.

Claim 43 requires “preprogramming the wireless device with a temporary mobile station identification and internet protocol address of an activation server in a subscriber identity module (SIM).” This feature is not taught or suggested by any art of record, or combination thereof, as described above. Claims 43-52 should be allowed.

Numerous specific claim limitations, not taught or suggested by any cited reference, alone or in combination, have been described above. Other limitations also appear in the claims.

Other rejections rely on a combination of references. For a proper rejection based on a combination of references, a motivation to make the combination must be shown in the cited art. “The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.” (MPEP 2143, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

As there has been no showing that any such motivation to combine is found in the cited art, all rejections based on a combination of Findikli and Dusse are overcome.

All rejections are traversed.

CONCLUSION

As a result of the foregoing, the remaining claims in the Application are believed to be in condition for allowance, and reconsideration and allowance is respectfully requested.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at manderson@davismunck.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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